

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: LARSEN, Jesper Kristoffer
 Serial No.: 09/623,426
 Filed: April 3, 2001
 For: ANIMAL BREEDING SYSTEM
 Confirmation No.: 5642

Art Unit: 3643
 Examiner: PRICE, RICHARD THOMAS JR.
 Washington, D.C.
 Atty.'s Docket: LARSEN=1
 Date: November 10, 2003

U.S. Patent and Trademark Office
 2011 South Clark Place
 Customer Window
 Crystal Plaza Two, Lobby, Room 1B03
 Arlington, Virginia 22202
 Sir:

11/13/2003 HDANTE1 00000033 09623426

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475.00 US

Transmitted herewith is an ☐ Amendment ☒ Response Under Rule 1.115 in the above-identified application.
☒ Small entity status of this application under 37 CFR 1.9 and 1.27 has been established by a verified statement previously submitted.
☐ Small entity status of this application under 37 CFR 1.9 and 1.27 has been previously asserted.
☐ A verified statement to establish small entity status under 37 CFR 1.9 and 1.27 is enclosed.
☐ No additional fee is required.

The fee has been calculated as shown below:

(Col. 1)	(Col. 2)	(Col. 3)	Small Entity			Other Than a Small Entity		
	Claims Remaining After Amendment	Highest No. Previously Paid For	Present Extra	Rate	Additional Fee	Rate	Additional Fee	
Total	Minus		0	x 9	\$	x18	\$	
Indep.	Minus		0	x43	\$	x86	\$	
First Presentation of Multiple Dependent Claim				145	\$	+290	\$	
TOTAL ADDITIONAL CLAIMS FEE					\$	Total	\$	

- * If the entry in Col. 1 is less than the entry in Col. 2, write "0" in Col. 3.
 ** If the "Highest Number Previously Paid For" IN THIS SPACE is less than 20, write "20" in this space.
 *** If the "Highest Number Previously Paid For" IN THIS SPACE is less than 3, write "3" in this space.

The "Highest Number Previously Paid For" (total or independent) is the highest number found from the equivalent box in Col.1 of a prior amendment of the number of claims originally filed.

☒ Conditional Petition for Extension of Time
 If any extension of time for a response is required applicant requests that this be considered a petit

☒ It is hereby petitioned for an extension of time in accordance with 37 CFR 1.136(a). The appropriate fee required by 37 CFR 1.17 is calculated as shown below:

Small Entity

Response Filed Within

- ☐ First - \$ 55.00
☐ Second - \$ 210.00
☒ Third - \$ 475.00
☐ Fourth - \$ 740.00
☐ Fifth - \$1005.00

Other Than Small Entity

Response Filed Within

- ☐ First - \$ 110.00
☐ Second - \$ 420.00
☐ Third - \$ 950.00
☐ Fourth - \$1480.00
☐ Fifth - \$2010.00

☐ Less fees (\$) already paid for months extension of time on

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☐ Please charge my Deposit Account No. 02-4035 in the amount of \$. A duplicate copy of this sheet is attached.

☐ A check in the amount of \$ is attached (check no.).

☒ Credit Card Payment Form, PTO-2038, authorizing payment in the amount of \$475.00 is attached.

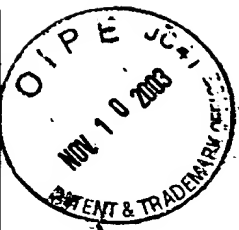
☒ The Commissioner is hereby authorized and requested to charge any additional fees which may be required in connection with this application or credit any overpayment to Deposit Account No. 02-4035. This authorization and request is not limited to payment of all fees associated with this communication, including any Extension of time fee, not covered by check or specific authorization, but is also intended to include all fees for the presentation of extra claims under 37 CFR Section 1.16 and all patent processing fees under 37 CFR Section 1.17 throughout the prosecution of the case.

This blanket authorization does not include patent issue fees under 37 CFR Section 1.18.

BROWDY AND NEIMARK, P.L.L.C.
 Attorneys for Applicant(s)

Facsimile: (202) 737-3528
 Telephone: (202) 628-5197

By 
 IVER P. COOPER
 Registration No. 28,005



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LARSEN, Jesper Kristoffer)	Examiner: PRICE, R.
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RESPONSE UNDER RULE 1.115

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S i r :

In response to the office action mailed May 12, 2003, please enter the following remarks.

Unity/Restriction

On November 19, 2002, the Examiner made a 13-way restriction of the pending claims. On December 19, 2002, we filed an election of group XII with traverse, which pointed out that the Examiner had applied the wrong unity standard (domestic instead of PCT), and that under the correct standard, all of the claims had unity.

The office action mailed May 12, 2003 is incomplete in that it failed to explicitly reconsider the restriction in light of our traversal. Under 37 CFR §1.143 the Examiner must either withdraw the restriction or explain why it is properly maintained. The Examiner did neither.

The action is also deficient in that it fails to state the status of claims 2-18, 23-44, 46-48 and 58-65. If the restriction was maintained, the Office Action Summary should have

indicated that these claims were pending but withdrawn from consideration.

2. Anticipation

The sole substantive issue is whether Van Der Lely '837 anticipates the claims. For anticipation, the reference must contain all recited elements on the claim, either expressly or by clear implication. It doesn't.

The present claim 1 requires "(b) means for controlled and individually regularly feeding of the animals based on the recorded data of such animal".

Van der Lely '837 describes a milking system, and only perfunctorily addresses the feeding of the animal. According to col. 5, lines 15-22, the feed is placed into a manger or feed troughs along the sides of the feed passage 4. It is immediately evident from inspection of the drawing that the cows have group access to the sides of 4. Indeed, in the figure, seven cows are feeding simultaneously. Thus, Van der Lely does not teach individualized feeding of the animals. Nor is such feeding controlled on the basis of the data recorded for an individual animal, that is, the food given is not adjusted on the basis of the animal's last feeding, health status, milk yield, etc. The recorded data is used only to control the milking of the animal.

Claim 1 also requires an open-air field area where the means (a) and (b) are arranged. Van der Lely's means (a), the means for collecting the recorded data, is "disposed in or in the vicinity of the milking parlor" (col. 2, lines 37-38). This sensor is inside selection compartment 3 (see col. 5, lines 31-33), which is clearly indoors (see Figure). It is not in an open-air field area. Likewise, the closest that Van der Lely comes to means (b) is the feed passage 4, and that, too, is indoors.

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Consequently, Van der Lely '837 does not anticipate.

Respectfully submitted,

BROWDY AND NEIMARK, P.L.L.C.
Attorneys for Applicant

By: 

Iver P. Cooper
Reg. No. 28,005

624 Ninth Street, N.W.
Washington, D.C. 20001
Telephone: (202) 628-5197
Facsimile: (202) 737-3528
IPC:lms
G:\ipc\n-q\Plou\larsen1\ptoresponse.wpd